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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/574,441

05/19/2000

J. Stuart Cumming

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03/10/2004

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EXAMINER

WILLSE, DAVID H

ART UNIT

PAPER NUMBER

3738

DATE MAILED: 03/10/2004

28

Please find below and/or attached an Office communication concerning this application or proceeding.



Office Action Summary

Application No.

09/574,441



Applicant(s)

CUMMING, J. STUART

Examiner

Dave Willse

Art Unit

3738

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 12-19, 23, 25-29, 31-35, 37 and 39-51 is/are pending in the application.
- 4a) Of the above claim(s) 27-29, 31-35, 37, 40-46 and 49 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-8, 12-19, 23, 25, 26, 39, 47 and 48 is/are allowed.
- 6) ☒ Claim(s) 50 is/are rejected.
- 7) ☒ Claim(s) 51 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Claims 27-29, 31-35, 37, 40-46, and 49 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 27.

The disclosure is objected to because of the following informalities: In claim 12, line 9, “optic” is misspelled. In claim 41, line 10, “limited” is misspelled; on line 14, “optic” is misspelled. In claim 48, line 6, “frame” is misspelled. Appropriate correction is required.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 50 is rejected under 35 U.S.C. 102(e) as being clearly anticipated by Glick et al., US 6,616,692 B1, which discloses a posteriorly vaulted frame **12** and **16** (Figure 2) adapted for engagement with the periphery of a capsular bag (column 5, lines 46-53) and having oppositely extending end portions (column 6, lines 44-48; Figure 6; column 9, lines 49-50); a flexible optic **14** (column 6, line 23) and attachments **18** (column 6, lines 44-48) for allowing movement of the optic **14** relative to the frame **12** and **16** (column 7, lines 25-27); and the lens assembly being constructed to be foldable longitudinally (column 6, lines 21-27; column 7, lines 11-14).

Claim 51 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 1-8, 12-19, 23, 25, 26, 39, 47, and 48 are allowable over the prior art of record.

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The Applicant's remarks have been considered but are deemed moot in view of the new grounds of rejection applied above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dave Willse whose telephone number is (703) 308-2903. The examiner can normally be reached Monday through Thursday and often on Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott, can be reached on (703) 308-2111. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.



Dave Willse
Primary Examiner
Art Unit 3738